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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/071,442

02/06/2002

Blaine D. Gaither

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10/04/2007

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FORT COLLINS, CO 80527-2400

EXAMINER

LASTRA, DANIEL

ART UNIT

PAPER NUMBER

3622

MAIL DATE

DELIVERY MODE

10/04/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/071,442

Applicant(s)

GAITHER, BLAINE D.

Examiner

DANIEL LASTRA

Art Unit

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-25 have been examined. Application 10/071,442 (SYSTEM FOR OFFERING SERVICES USING NETWORK OF UNOWNED COMPUTERS) has a filing date 02/06/2002.

Response to Amendment

2. In response to Non Final Rejection filed 03/21/200, the Applicant filed a Request for reconsideration on 06/19/2007.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones (US 2002/0198929) in view of Voice as a commodity (Dialog file 9: 02433444).

Claim 1, Jones teaches:

A system for utilizing a collective processing capability of a plurality of computers, the system comprising the steps of:

entering into a plurality of agreements, each of which is between the master server and a different one of the client computers (see paragraphs 30-31);

interconnecting the computers via the Internet to create a network (see paragraphs 30-31); and

using the network to provide a service that provides the master server with a commercial benefit (see paragraphs 30-31).

Jones fails to teach that vendors sell the computers to the client if the vendor retains a right to use said specific one after the sale thereof and conveying, subject to said agreements, the plurality of the computers to said purchasers. However, Official Notice is taken that it is old and well known in the promotion art that vendors give products' discounts to clients, when said clients abide to said vendors' rules. For example, Voice as a commodity teaches that wireless Internet Service providers provide service plans that appeal to the consumer market including discounted phone offers with a two-year contract agreement (see Voice as a commodity paragraphs 6 and 11). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Internet service providers would use the Jones' system to sell computers devices to clients at discounts, as taught by Voice as a commodity if said clients agreed to share the resources of their devices with said service providers in order that said service providers' master servers do not become overwhelmed by the client requests as the master servers files would be shared in a peer-to-peer network with the other client machines.

Claim 2, Jones fails to teach:

The system of claim 1, wherein each one of said plurality of agreements is entered into prior to the sale of a respective said specific one of the computers via the

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network. However, Official Notice is taken that it is old and well known in the promotion art that agreements between vendors and clients are performed prior said clients purchase something from said vendors. Therefore, the same rejection made in claim 1 regarding this missing limitation is also made in claim 2.

Claim 3, Jones teaches:

The system of claim 1, wherein the agreement provides an incentive to each of the clients (see paragraphs 30-31). Jones fails to teach that said incentive is a purchase incentive. However, the same rejection made in claim 1 regarding this missing limitation is also made in claim 3.

Claim 4, Jones teaches:

The system of claim 1, wherein, in response to a query generated by a first one of the computers and received by a second one of the computers, data is sent from the second one of the computers to the first one of the computers (see paragraphs 30-31).

Claim 5, Jones teaches:

The system of claim 4, wherein said data comprises an Internet web page (see paragraph 17).

Claim 6, Jones teaches:

The system of claim 1, wherein the network comprises a plurality of nodes, each of which includes one of the computers, and wherein one of the nodes is a server node; and wherein the server node maintains a list of all of the computers connected thereto, along with the respective IP addresses for each of the computers, and information identifying files stored on each respective one of the computers (see paragraphs 16-17).

Claim 7, Jones teaches:

The system of claim 1, wherein the network comprises a plurality of peers, each of which includes one of the computers (see paragraph 28); and

wherein each of the peers in the network is a servent that acts as both a client and a server to distribute data between the peers in response to a query generated by one of the peers (see paragraphs 30-31).

Claim 8, Jones teaches:

The system of claim 7, wherein:

said query is distributed between successive said peers until the query is received by one of the peers having access to said data (see paragraphs 30-31); and

said data is distributed between successive said peers until the data is received by said one of the peers that generated the query (see paragraphs 30-31).

Claim 9, Jones teaches:

The system of claim 1, wherein said network includes said computers used by entities not in privity with the master server (see paragraphs 30-31).

Claim 10, Jones teaches:

The system of claim 1, wherein the right to use said specific one of the computers includes the right to use low-priority processor cycles of the specific one of the computers to effect said service (see paragraphs 30-31).

Claim 11, Jones teaches:

The system of claim 1, wherein the right to use said specific one of the computers includes the right to use a predetermined amount of processor time of the

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specific one of the computers to effect said service, within a fixed interval of time (see paragraphs 30-31).

Claim 12, Jones teaches:

The system of claim 1, wherein the network is used to provide said service after a predetermined minimum number of the computers have been conveyed to the client (see paragraphs 30-31).

Claim 13, Jones teaches:

The system of claim 1, wherein said computers include devices having an embedded processor (see paragraphs 30-31).

Claim 14, Jones teaches:

A system for utilizing a collective processing capability of a plurality of devices containing embedded processors, after the devices have been sold to purchasers by a vendor, the system comprising the steps of:

entering into an agreement between the master server and one of the clients wherein, with respect to a specific one of the devices (see paragraphs 30-31)

Jones fails to teach:

to be sold to said one of the purchasers, the vendor retains a right to use said specific one after the sale thereof;

conveying at least one of the devices to a purchaser, after entering into said agreement; and

repeating the previous two steps until a predetermined minimum number of said devices have been sold. However, the same rejection made in claim 1 regarding this missing limitation is also made in claim 14.

Claim 15, Jones teaches:

The system of claim 14, including the additional steps of
interconnecting the devices via the Internet to create a network (see paragraph 28); and

using the network to provide a service, used by the client, that provides the master server with a commercial benefit (see paragraphs 30-31).

Claim 16, Jones teaches:

The system of claim 15, wherein, in response to a query generated by a first one of the devices and received by a second one of the devices, data is sent from the second one of the devices to the first one of the devices via the network (see paragraphs 30-31).

Claim 17, Jones teaches:

The system of claim 15, wherein the network comprises a plurality of nodes, each of which includes one of the devices, and wherein one of the nodes is a server node; and

wherein the server node maintains a list of all of the devices connected thereto, along with the respective IP addresses for each of the devices, and information identifying files accessible by each respective one of the devices (see paragraphs 16-17).

Claim 18, Jones teaches:

The system of claim 15, wherein the network comprises a plurality of peers, each of which includes one of the devices (see paragraph 28); and

wherein each of the peers in the network is a servent that acts as both a client and a server to distribute data between the peers in response to a query generated by one of the peers (see paragraphs 30-31).

Claim 19, Jones teaches:

The system of claim 14, wherein the right to use said specific one of the devices includes the right to use low-priority processor cycles of the specific one of the devices to effect said service (see paragraphs 30-31).

Claim 20, Jones teaches:

The system of claim 14, wherein the right to use said specific one of the devices includes the right to use a predetermined amount of processor time of the specific one of the devices to effect said service, within a fixed interval of time (see paragraphs 30-31).

Claim 21, Jones teaches:

A system for utilizing a collective processing capability of a plurality of computers comprising the steps of:

(a) entering into an agreement between a master server of said computers and a client of one of the computers (see paragraphs 30-31),

(c) interconnecting the devices via the Internet to create a network (see paragraphs 30-31).

Jones fails to teach wherein the vendor retains a right to use the computer after the sale thereof; b) conveying said one of the computers to said purchaser, after entering into said agreement; wherein steps (a) and (b) are repeated with a different said purchaser until a predetermined minimum number of the computers have been sold. However, the same rejection made in claim 1 regarding this missing limitation is also made in claim 21.

Claim 22, Jones teaches:

The system of claim 21, including the additional step of using the network to provide a service (see paragraphs 30-31).

Claim 23, Jones teaches:

The system of claim 22, wherein, in response to a query generated by a first one of the computers and received by a second one of the computers, data is sent from the second one of the computers to the first one of the computers via the network (see paragraphs 30-31).

Claim 24, Jones teaches:

The system of claim 22, wherein the network comprises a plurality of nodes, each of which includes one of the computers, and wherein one of the nodes is a server node; and wherein the server node maintains a list of all of the computers connected thereto, along with the respective IP addresses for each of the computers, and information identifying files stored on each respective one of the computers (see paragraphs 16-17).

Claim 25, Jones teaches:

The system of claim 22, wherein the network comprises a plurality of peers, each of which includes one of the computers (see paragraph 28); and

wherein each of the peers in the network is a servent that acts as both a client and a server to distribute data between the peers in response to a query generated by one of the peers (see paragraphs 30-31).

Response to Arguments

4. Applicant's arguments filed 06/19/2007 have been fully considered but they are not persuasive. The Applicant argues that Jones does not teach Applicant's claim 1 because Jones does not teach agreements between machines such as servers and other computers. The Examiner answers that Jones teaches that clients needs to agree to adopt peer-to-peer sharing technology in order to permit a master server to use said clients' computers resources (see paragraphs 29-31). Therefore, contrary to Applicant's argument, Jones clients' computers need to permit or agree that the master server to conditionally utilize said clients computers and therefore, Jones teaches Applicant's "agreement" limitation.

The Applicant argues that taking Official Notice of generalized product discounts has no connection to, and thus cannot make obvious, a vendor retaining a right to use a sold computer or similar device, which is neither old nor well known. The Examiner answers that Voice as a commodity was the reference cited for teaching a vendor that sells, leases or otherwise conveys a device to a purchaser. With that agreement, said Service providers retain a right to use their network on said purchaser device.


Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720 and fax 571-273-6720. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W. STAMBER can be reached on 571-272-6724. The official Fax number is 571-273-8300.


RAQUEL ALVAREZ
PRIMARY EXAMINER

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Daniel Lastra
September 2, 2007